

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

**FILED**

AUG 01 2008

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

NILESH SINGH,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney  
General,

Respondent.

No. 05-74541

Agency No. A79-586-572

MEMORANDUM \*

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted July 22, 2008\*\*

Before: B. FLETCHER, THOMAS, and WARDLAW, Circuit Judges.

Nilesh Singh, a native and citizen of Fiji, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing an immigration judge's ("IJ")

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

decision denying his application for asylum, withholding of removal, and relief under the Convention Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence and will uphold the agency’s decision unless the evidence compels a contrary conclusion. *INS v. Elias-Zacarias*, 502 U.S. 478, 481 n.1 (1992). We grant the petition for review.

The BIA did not address the issue of whether the IJ’s decision to allow the case to be submitted on the documentary evidence rather than continue Singh’s merits hearing was in error. Because “IJs and the BIA are not free to ignore arguments raised by a petitioner,” we grant the petition for review and remand for the BIA to address the issue in the first instance. *Sagaydak v. Gonzales*, 405 F.3d 1035, 1040 (9th Cir. 2005).

**PETITION FOR REVIEW GRANTED; REMANDED.**